

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANTIFUN LIMITED T/A PREMIUM VAPE,

Plaintiff,

-v-

WAYNE INDUSTRIES LLC,
DOUGLAS RUTH,

Defendants.

22 Civ. 57 (PAE)

ORDER

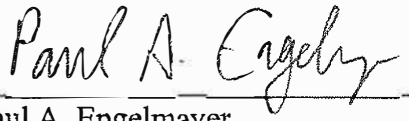
PAUL A. ENGELMAYER, District Judge:

On March 30, 2022, plaintiff filed the operative complaint in this case, asserting diversity of citizenship of the parties as the sole basis for federal jurisdiction. Dkt. 15 (“AC”). On review, it appears to the Court that defendant Wayne Industries LLC is a limited liability company (“LLC”). The citizenship of an LLC is the citizenship of each of its constituent members. While the AC alleges that Wayne is registered in Wyoming and does business in New York, the AC does not also allege the citizenship of the LLC’s members.

To enable the Court to determine whether there is diversity of citizenship, the Court orders plaintiff, by June 14, 2022, to file a letter, which must clarify the AC’s allegations as follows: allege (1) the citizenship of natural persons who are members of the LLC and (2) the place of incorporation and principal place of business of any corporate entities who are members of the LLC. *See Handelsman v. Bedford Village Assoc. Ltd. P’ship*, 213 F.3d 48, 51–52 (2d Cir. 2000) (citing *Cosgrove v. Bartolotta*, 150 F.3d 729, 731 (7th Cir. 1998)); *Strother v. Harte*, 171 F. Supp. 2d 203, 205 (S.D.N.Y. 2001) (“For purposes of diversity jurisdiction, a limited liability company has the citizenship of each of its members.”). If plaintiff is unable to clarify the allegations in the AC so as to truthfully allege complete diversity based upon the citizenship of

each constituent person or entity of the LLC, then the AC will be dismissed, without prejudice, for want of subject matter jurisdiction. *See Curley v. Brignoli, Curley & Roberts Assocs.*, 915 F.2d 81, 83 (2d Cir. 1990) (“[S]ubject matter jurisdiction is an unwaivable *sine qua non* for the exercise of federal judicial power.”).

SO ORDERED.



Paul A. Engelmayer
United States District Judge

Dated: June 9, 2022
New York, New York